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15 March 2011

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BY HAND DELIVERY

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

MAR 16 2011
Federal Communications Commission
Bureau / Office

Re: *Foreign Carrier Affiliation Notification of AST Telecom, LLC d/b/a Blue Sky Communications, American Samoa Hawaii Cable, LLC, and Samoa American Samoa Cable, LLC*

Dear Ms. Dortch:

Pursuant to 47 C.F.R. § 1.768, AST Telecom, LLC d/b/a Blue Sky Communications ("Blue Sky"), American Samoa Hawaii Cable, LLC ("ASHC"), and Samoa American Samoa Cable, LLC ("SASC") (together, "Cable Landing Licensees")—the three joint licensees for the American Samoa Hawaii Cable System—notify the Commission of a proposed foreign carrier affiliation. The Cable Landing Licensees seek to become affiliated with SamoaTel Limited, a foreign carrier in the Independent State of Samoa, as a consequence of Blue Sky's pending acquisition of a controlling interest in SamoaTel.

As Blue Sky seeks to consummate the transaction no later than March 31, 2011, Blue Sky has filed via the International Bureau Filing System ("IBFS") a concurrent request for Special Temporary Authority to permit timely consummation of the transaction. ASHC and SASC are not making parallel STA requests along with Blue Sky, even though ASHC and SASC are parties to the attached notification. As discussed with International Bureau staff prior to filing, 47 C.F.R. § 1.768(a) does not require a prior notification of the proposed affiliation by ASHC and SASC because neither ASHC nor SASC is a parent entity of Blue Sky, and because no foreign carrier is acquiring an interest in ASHC or SASC.

The Cable Landing Licensees have filed the attached notification on paper, as there is no form within IBFS for a foreign carrier affiliation notification made pursuant to 47 C.F.R. § 1.768. *See id.* §§ 1.768(n), 1.1000 *et seq.* (requiring electronic filing where forms exist within IBFS).

Ms. Marlene H. Dortch
Federal Communications Commission
15 March 2011
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Should you have any questions, please contact me by telephone at +1 202 730 1337 or by e-mail at kbressie@wiltshiregrannis.com.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Kent Bressie".

Kent Bressie
*Counsel for AST Telecom, LLC d/b/a Blue Sky
Communications, American Samoa Hawaii Cable,
LLC, and Samoa American Samoa Cable, LLC*

Attachments

cc: David Krech

Exhibit 2:

Foreign Investment Act (No. 3) 2000, as amended

SAMOA

Arrangement of Provisions

- | | |
|---|------------------------------------|
| 1. Short title and commencement | 9. Duration of certificates |
| 2. Interpretation | 10. Register of Foreign Investment |
| 3. Reserved List | 11. Reports by Foreign Investors |
| 4. Restricted List | 12. Cancellation of certificates |
| 5. Activities not otherwise restricted | 13. Rights of Appeal |
| 6. Foreign Investment Registration | 14. Offences and Penalties |
| 7. Functions of the Secretary | 15. Investment Guarantees |
| 8. Receipt and Approval of Applications for Foreign Investment Registration | 16. Settlements of Disputes |
| | 17. Transitional Arrangements |
| | 18. Regulations |
| | Schedule |

2000, No. 3

AN ACT to promote foreign investment and to regulate such investment by guaranteeing the rights of citizens to participate in the economy of Samoa. [15th June 2000]

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:-

1. Short title and commencement-(1) This Act may be cited as the Foreign Investment Act 2000.

(2) This Act shall come into force on the date that it is assented to by the Head of State.

2. Interpretation-(1) In this Act, unless the contrary intention appears:

“Business” or “Business or economic activity” has the same meaning as in the Business Licences Act 1998:

“Certificate” means a Foreign Investment Registration certificate issued under section 8:

“Citizen” means a person who is a citizen of Samoa by virtue of the Citizenship Act 1972:

“Department” means the Department of Trade, Commerce and Industry:

“Minister” means the Minister responsible for Trade, Commerce and Industry:

“Non-citizen” means any person who is not a citizen:

“Prohibited List” means the list of business or economic activities in the Schedule to the Business Licences Act 1998:

“Register” means the register maintained under section 10:

“Reserved List” means the list of business or economic activities in the Schedule to this Act:

“Restricted List” means the business or economic activities, and the conditions that are applicable to them, prescribed under section 4:

“Secretary” means the Secretary of the Department.

(2) For the purposes of this Act, “foreign investment” is the involvement of any non-citizen, or any company in which a non-citizen holds a shareholding, in any business or economic activity in Samoa for which a business licence is required by the Business Licences Act 1998.

(3) Notwithstanding subsection (2), any business in Samoa which is owned entirely by a citizen or citizens, but which operates under a franchise agreement with a non-citizen who is not resident in Samoa, shall not be regarded as “foreign investment” for the purposes of this Act.

PROVIDED THAT the Minister may deem such a business to be “foreign investment” if he considers that the franchise agreement was entered into for the purpose of defeating the application of this Act.

(4) The lending of money by a non-citizen to a business owned and operated by a citizen, such loan to be repaid at a rate of interest rather than on the basis of a share of the business profits, shall not be regarded as “foreign investment” for the purposes of this Act.

3. Reserved List-(1) The business or economic activities listed in the Schedule shall be reserved for citizens of Samoa exclusively, and no approval may be given under this Act, or any other law, for a non-citizen to own or participate in any business or venture that includes any of the activities in the Reserved List.

(2) Nothing in subsection (1) shall prevent a non-citizen from being employed in such a business provided that he holds the right to employment under the relevant laws in Samoa.

(3) Regulations may clarify any of the activities referred to in the Reserved List by the inclusion of further description or detail, which shall be deemed to form part of the Schedule.

4. Restricted List-(1) Regulations may prescribe business and economic activities which may be undertaken by non-citizens only if they meet certain prescribed conditions, which may require any or all of the following -

- (a) That there be a limit to the extent of foreign equity in such a venture by the requirement of mandatory joint venture with a citizen or citizens;
- (b) That there be a restriction on the amount of investments, set either as a minimum or a maximum level;
- (c) That specified citizen employment targets be met;
- (d) That the investment capital required for the business or economic activity be sourced from overseas, to any extent.

(2) The conditions prescribed under subsection (1)(a) shall be set as a percentage of equity in the business which is to be held by citizens of Samoa, but nothing shall prevent the making of a Regulation that applies to a specific business venture.

(3) The conditions prescribed under subsection (1)(b), (c) and (d) shall permit the Minister to set the levels and targets to apply to any specific business venture, after consulting with the Secretary.

5. Activities not otherwise restricted – Subject to this Act and any other law, any non-citizen may own or participate in any business or economic activity that is not -

- (a) Listed in the Schedule; or
- (b) Prescribed under section 4; or
- (c) Prohibited under the Business Licences Act 1998.

6. Foreign Investment Registration-(1) Every foreign investment in Samoa, whether established before or after the commencement of this Act, shall be required to hold a Foreign Investment Registration certificate issued under this Act.

(2) The certificate shall be in the prescribed form.

7. Functions of the Secretary – In relation to the registration of foreign investment in Samoa, the Secretary shall be responsible for -

- (a) The coordination of the -
 - (i) Reserved List; and
 - (ii) Restricted List; and
- (b) The receipt and processing of applications for Foreign Investment Registration; and
- (c) The issuing of certificates; and
- (d) The monitoring of foreign investment in Samoa.

8. Receipt and Approval of Applications for Foreign Investment Registration-(1) Upon receipt of an application for registration under this Act, in the prescribed form, the Secretary shall consider the proposed business or economic activities to be undertaken, and -

- (a) Issue within the prescribed time, a certificate if the application relates to business or economic activities that -
 - (i) are not included in the Prohibited, Reserved or Restricted Lists; or
 - (ii) are included in the Restricted List, but which meet the conditions applicable to the proposed business; or
 - (b) Advise the applicant that the application has been rejected on the grounds that the business or economic activities -
 - (i) are included in the Prohibited, Reserved or Restricted Lists; or
 - (ii) are included in the Restricted List, and that the proposed business fails to meet the prescribed conditions.
- (2) A certificate issued under subsection (1)(a)(ii) shall have endorsed on it a list of the prescribed conditions.
- (3) In the event that the Secretary is unable to determine whether a proposed business will include a business or economic activity that is included in the Prohibited, Reserved or Restricted Lists, he shall refer the matter to the Minister, whose determination in this respect shall bind the Secretary.
- (4) Where a matter has been referred to the Minister under subsection (3) and any issue regarding the matter relates to the possible application of the Prohibited List, the Minister shall consult with the Commissioner for Inland Revenue before making his determination.
- (5) The Secretary may delegate to an officer of the Department his powers under this section.

9. Duration of certificates – A certificate issued under section 8 shall be valid for the duration of the business enterprise to which it relates, unless otherwise terminated under this Act or by operation of any other relevant law, but shall lapse after the expiration of two years if the Minister is satisfied that by that time the operations of the business have not commenced.

10. Register of Foreign Investment – A register of applications made and certificates granted under this Act shall be kept by the Secretary.

11. Reports by Foreign Investors – It shall be a condition of every registration made under this Act that the business provide a report each year to the Secretary, not later than 6 months after the end of the financial year to which the report relates.

12. Cancellation of certificates – A certificate issued under this Act may be cancelled by the Secretary if –

- (a) Any information given in the application for the certification was incorrect so as to create a false impression as to the ownership of the business or the nature of its activities; or
- (b) The business carries on any activity that is included in the Prohibited List or Restricted List; or
- (c) The business breaches any prescribed condition applicable to it; or
- (d) The Secretary is satisfied that any participating citizen in the business is not being accorded the full rights as part-owner or equity-holder in the venture as purported in the application for a certificate or as required by any prescribed condition applicable to it.

13. Rights of Appeal-(1) Any applicant whose application for a certificate has been rejected under section 8(b) may appeal in writing to the Minister against that decision and if the Minister is satisfied that no proposed activity is included on the Prohibited List or Reserved List, or that the prescribed conditions applicable to the activities will be complied with, he may direct that the certificate be granted and registration effected.

(2) A holder of a certificate that has been cancelled under section 12 may appeal to the Supreme Court.

14. Offences and Penalties-(1) It shall be an offence for -

- (a) Any non-citizen; or
 - (b) Any company having a shareholder who is a non-citizen,
- to engage in any business or economic activity in Samoa,
- (c) Which is specified in the Prohibited List or the Reserved List; or
 - (d) Which is specified in the Restricted List and in respect of which the prescribed conditions have not, at any time, been met; or
 - (e) Which is required by this Act to be registered but for which no certificate has been issued under this Act.

(2) Upon conviction of any offence under subsection (1) the Court may impose a fine not exceeding 500 penalty units.

(3) In addition to any other penalty imposed, upon conviction for any offence under subsection (1) the person or company so convicted shall have any certificate issued under this Act cancelled.

15. Investment Guarantees – The provisions of Article 14 of the Constitution shall apply to all foreign investment in Samoa.

16. Settlements of Disputes-(1) The provisions of the Arbitration Act 1976 shall have full effect in relation to disputes that involve foreign investors in Samoa.

(2) Subject to this Act and to any other law in Samoa, the Convention on the Settlement of Investment Disputes signed in Washington on 3rd February 1978 and ratified by Samoa on 25th April 1978, shall have the force of law in Samoa.

17. Transitional Arrangements-(1) Any business to which this Act applies and that is in operation as at the commencement of this Act shall be required to achieve compliance with the provisions of this Act within 12 months of the commencement date.

(2) The Minister may approve an extension of time under subsection (1) for any specific business but such extension shall not exceed a further period of 12 months.

18. Regulations-(1) The Head of State, acting on the advice of Cabinet, may from time to time make all such regulations as are required to be made under this Act or as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting this power, regulations may be made under this section for all or any of the following purposes -

- (a) The inclusion, deletion or clarification of any business or economic activity in the Schedule;
- (b) The types of business or economic activities to be included on the Restricted Lists and the conditions to attach to them;
- (c) The form of the certificate and any fees to be paid in relation to applications for or grants of certificates;
- (d) The time in which certificates must be issued;
- (e) The form of the register and the matters to be included in it;
- (f) Fees for inspection of the register;
- (g) The form of reports to be submitted by foreign investors and the particulars to be included in them;
- (h) Procedures for applying for amendment to certificates and entries in the register and the circumstances in which such applications may or must be made.

SCHEDULE

(section 3(1))

RESERVED LIST

- Buses for transportation of the general public
 - Taxis
 - Vehicles for Hire
 - Retailing
 - Sawmilling
-

Exhibit 3:

**Rule for the Licensing of Telecommunications Services and the Ownership or Operation of
Telecommunications Networks in Samoa**

**RULE FOR THE LICENSING OF TELECOMMUNICATIONS SERVICES AND THE OWNERSHIP OR
OPERATION OF TELECOMMUNICATIONS NETWORKS IN SAMOA**

Government of Samoa

Regulator

Rules Ref: *[INSERT]*

**RULE FOR THE LICENSING OF TELECOMMUNICATIONS SERVICES AND THE
OWNERSHIP OR OPERATION OF TELECOMMUNICATIONS NETWORKS IN
SAMOA**

This Rule sets out the procedures and criteria for issuing Licences and is made pursuant to Section 16 of the Telecommunications Act 2005.

This Rule prescribes which type of Telecommunications Services and Telecommunications Networks require Individual Licences and Class Licences and is made pursuant to Section 15(2) of the Telecommunications Act 2005.

THE REGULATOR ISSUES THE FOLLOWING RULE

Part I Introduction

Article 1 Definitions

- (1) Words and phrases in this Rule have corresponding meanings to the same words and phrases where defined in the Telecommunications Act 2005.
- (2) In addition to terms defined in the Telecommunications Act 2005, the following terms shall have the following meanings in this Rule:

“Calendar Days” means a day of a calendar month, including weekends and any Public Holidays in Samoa.

“Calendar Year” means a year commencing on 1 January and ending on 31 December.

“Effective Date” means the date of signature of this Rule by the Regulator.

“Force Majeure Event” means any event outside the reasonable control of the Licensee, including without limitation, the failure of any supplier to deliver equipment at the prescribed time, an act of god, an industrial dispute of any kind, a war declared or undeclared, military operations, a blockage, a civil disturbance, lightning, fire,

earthquake, storm, flood, explosion, weather of exceptional severity, interruption or failure of utility service (including but not limited to electric power, gas and water), national or local emergency or meteor.

“Licence” means an Individual Licence or a Class Licence for the provision of Telecommunications Services and the ownership or operation of Telecommunications Networks in Samoa.

“Licence Fees” means the licence fees set out in the regulations issued pursuant to Section 10 of the Telecommunications Act 2005.

“Licensee” means the holder of a Licence issued under this Rule.

“Month” means a calendar month.

“Start Date” has the meaning set out in the relevant Licence.

Part II Objects of Licensing

Article 2 General objects

- (1) The procedures for issuing Licences shall be fair and objective.
- (2) The main objectives of the issuance of Licences are to enable the Ministry and the Regulator to achieve the objectives of the Telecommunications Act 2005.
- (3) The licensing framework established under this Rule shall be implemented in a non-discriminatory, proportionate and transparent manner in respect of all relevant persons and entities (whether privately or publicly owned or jointly owned) having regard to objectively specified criteria.

Part III Requirement for a License

Article 3 Application

- (1) This Rule sets out the procedure and criteria for the issuing of Licences and exemption orders by the Regulator pursuant to Section 12(1) of the Telecommunications Act 2005.
- (2) Individuals and entities issued telecommunications or related licences or authorisation before the Effective Date shall apply for licences under Part V of this Rule as soon as possible but no later than 6 Months after the Effective Date.

- (3) If individuals and entities issued telecommunications or related licences or authorisation before the Effective Date do not apply for a Licence under this Rule within 6 Months of the Effective Date, the Regulator may issue an order revoking the prior licence and issue a new Licence in accordance with this Rule.

Article 4 Licence types

- (1) The Regulator may grant the following types of licences:
 - (a) an Individual Licence; and
 - (b) a Class Licence.
- (2) If the provision of a Telecommunications Service or the ownership or operation of a Telecommunications Network is changed from an Individual Licence category to a Class Licence category, all relevant Individual Licences shall be automatically converted to Class Licences.
- (3) The Regulator shall ensure that all Telecommunications Services are able to be provided and all Telecommunications Networks are able to be owned or operated on the basis of a Class Licence except where:
 - (a) an Individual Licence is required due to the Licensee being given access to scarce physical and other resources; or
 - (b) is subject to particular obligations or enjoys particular rights.

Article 5 Licence authorisation

- (1) An Individual Licensee shall be entitled to provide specified Telecommunications Services or own or operate Telecommunications Networks in accordance with its Licence.
- (2) A Class Licensee shall be entitled to provide specified Telecommunications Services or own or operate Telecommunications Networks in accordance with its Licence.

Part IV Licence Classification and Exemptions

Article 6 Licence classification

- (1) The provision of the following Telecommunications Services and the operation or ownership of the following Telecommunications Networks are prescribed, pursuant to Section 15(2) of the Telecommunications Act 2005, to require an Individual Licence:
 - (a) Ownership or operation of any Telecommunications Network, including the ownership or operation of any of the following Telecommunications Facilities:
 - (i) earth stations;
 - (ii) cables;
 - (iii) public payphone facilities;
 - (iv) radio communications transmitters in connection with the provision of Telecommunications Services;
 - (v) towers, poles and other facilities in connection with the provision of Telecommunications Services;
 - (vi) international gateway facilities; and
 - (vii) domestic switching facilities.
 - (b) provision of the following Telecommunications Services:
 - (i) broadband Internet access services;
 - (ii) Internet access services, both wireline and wireless;
 - (iii) fixed telephony services, both wireline and wireless;
 - (iv) voice over Internet protocol (**VOIP**) services;
 - (v) video conferencing services;
 - (vi) public payphone services;
 - (vii) mobile telephony services;
 - (viii) point-to-point broadcasting transmission services;

- (ix) interactive carriage services;
 - (x) satellite based services including VSAT and mobile satellite services;
 - (xi) public switched data services;
 - (xii) leased line and transmission services; and
 - (xiii) international gateway services.
- (2) The provision of the following Telecommunications Services and the operation or ownership of the following Telecommunications Networks are prescribed, pursuant to Section 15(2) of the Telecommunications Act, to require a Class Licence:
- (a) Ownership or operation of any niche or limited purpose Telecommunications Facility that forms part of a Telecommunications Network, such as a telex facility; and
 - (b) Provision of the following Telecommunications Services;
 - (i) directory services;
 - (ii) Internet café services and email services;
 - (iii) public internet access hotspots;
 - (iv) premium rate content telephony services;
 - (v) SMS gateway services;
 - (vi) paging services; and
 - (vii) telegram and telex services.

Article 7 Exemptions

- (1) The provision of the following Telecommunications Services or the operation or ownership of the following Telecommunications Networks are prescribed, pursuant to Section 14(1) of the Telecommunications Act, to be exempted from the requirement to hold a Licence:

- (a) Ownership or operation of a private network (including VPN) for the purposes of providing telecommunications services that are not offered to the public;
- (b) Ownership or operation of Telecommunications Equipment including supply of satellite decoders and dishes, other than Telecommunications Equipment that forms part of a Telecommunications Network; and
- (c) Provision of a Telecommunications Service or the ownership or operation of a Telecommunications Network used to provide a Telecommunications Service:
 - (i) to the public for no compensation, for example, services used by amateur telephone operators;
 - (ii) by a Government authority as an essential service;
 - (iii) in-house cabling; or
 - (iv) Provision of point-to-multipoint broadcasting distribution services.

Part V Allocation of Licences

Article 8 Issuance of Licences

- (1) The Ministry may issue policy guidelines to the Regulator from time to time in relation to:
 - (a) any limitation on the number of relevant Licences to be issued;
 - (b) commencement of each type of Licence and time by which the Licensee must have commenced its operations (as extended by the Ministry from time to time);
 - (c) the allocation method and any applicable timeframe for allocation for a Licence;
 - (d) the allocation criteria applicable to a Licence; and
 - (e) any specific conditions in addition to the licence conditions specified in this Rule.
- (2) The Regulator shall grant Licences under this Rule in accordance with the policy guideline issued by the Ministry under Article 8(1) of this Rule.

- (3) The Regulator may refuse to grant a Licence in a manner consistent with the policy guideline issued by the Ministry under Article 8(1) of this Rule in which case the written reasons for the refusal shall be given to the applicant without delay.

Article 9 Procedure for issuance of Individual Licences

- (1) The Regulator shall publish in an appropriate manner that allows interested parties easy access to the following in respect of each Individual Licence:
- (a) the applicable licensing criteria; and
 - (b) conditions attached to that Individual Licence.
- (2) An application for an Individual Licence must be:
- (a) in writing; and
 - (b) in a form approved by the Regulator; and
 - (c) accompanied by an amount in respect of the Licence Fee pursuant to a regulation made under Section 10 of the Telecommunications Act 2005.
- (3) Any person may apply for an Individual Licence so long as the person is:
- (a) a company formed under the Companies Act 1955; or
 - (b) an entity that has a fixed and formal presence in Samoa and is registered or recognised under the laws of Samoa.
- (4) The Regulator may, within 60 days of receiving an application for an Individual Licence, require the applicant to provide additional information to enable the Regulator to consider the application and the obligation of the Regulator to make a decision under Article 9(6) will be deferred until such time as the additional information is provided by the Regulator.
- (5) Where the Regulator grants Individual Licences, the Regulator shall grant Individual Licences through open, non-discriminatory and transparent procedures and subject all applicants to the same procedures, unless there is an objective reason for differentiation.
- (6) The Regulator shall inform the applicant of its decision concerning an application for a Licence within a reasonable time, which shall normally be no more than 4 Months from

the date after receiving the fully completed application, unless specified otherwise by the Regulator in the applicable licensing criteria.

Article 10 Procedure for issuance of Class Licences

- (1) The Regulator shall publish the conditions attached to a Class Licence in an appropriate manner to allow interested parties easy access to that information.
- (2) Subject to Article 10(4) of this Rule, the Regulator shall issue a Class Licence to any person who complies with the conditions attached to a Class Licence, other than a disqualified person under Article 10(5) of this Rule.
- (3) The Regulator shall maintain a register of Class Licensees and the type of Class Licence that applying to each such Class Licensees and make such register available for inspection by the general public for a nominal administrative fee.
- (4) Any persons proposing to operate under a Class Licence must, prior to operating under that Class Licence, notify the Regulator:
 - (a) of its intention to offer Telecommunications Services or own or operate Telecommunications Networks under its Class Licence; and
 - (b) all reasonable information required by the Regulator to enable the Regulator to assess whether the Class Licensee's proposed offer of Telecommunications Services or the proposed ownership or operation of Telecommunications Networks is in compliance with its Class Licence.
- (5) If a Class Licensee:
 - (a) breaches Article 10(4) of this Rule; or
 - (b) breaches a term of its Class Licence,the Regulator may, by written order to the Class Licensee, disqualify the Class Licensee from operating under its Class Licence.
- (6) Prior to taking any action against the Class Licensee, the Regulator must give the Class Licensee reasonable time to rectify its breach under Article 10(5) and if the Class Licensee rectifies such breach, the Regulator must, within a reasonable time of such rectification, annul or modify its earlier decision as appropriate and give the Class Licensee written reasons for its decision.

- (7) The Class Licensee may terminate its Class Licence after:
- (a) providing one month prior written notification to the Regulator; and
 - (b) complying with any orders from the Regulator in respect of License Fees and other fees payable to the Regulator that remain unpaid by the Class Licensee.

Part VI Licence Conditions

Article 11 Complying with Licence conditions

- (1) A Licensee shall comply with all conditions of its Licence.
- (2) In addition to the conditions set out within the Licence, each Licence shall be deemed to include the:
- (a) standard licence conditions set out in the Telecommunications Act 2005;
 - (b) the licence conditions set out in this Part VI of this Rule; and
 - (c) such other conditions specified or amended by the Regulator from time to time.

Article 12 Compliance with Licence conditions

- (1) Where the Regulator makes orders pursuant to Section 77 of the Telecommunications Act 2005 to:
- (a) verify the Licensee's compliance with its Licence conditions; and
 - (b) achieve outcomes that are in the public interest or assist the objectives of the Telecommunications Act 2005,
- the Licensee shall promptly comply with such orders at its own cost.
- (2) In addition to conditions pursuant to the Telecommunications Act 2005, the Regulator may, where justified and subject to the principle of proportionality, attach to a Class Licence, a requirement to provide emergency services.

Article 13 Exceptions and limitations on the Licensee's obligations

- (1) If the Licensee is prevented from performing its obligations under this Licence because of a Force Majeure Event:
 - (a) the Licensee shall notify the Regulator of the obligations that it is prevented from performing and the reasons why, as soon as reasonably practicable; and
 - (b) the Regulator may, by written order, suspend the Licensee's obligation to comply with those obligations for the duration of the Force Majeure Event if:
 - (i) the Licensee could not have reasonably anticipated the occurrence of the Force Majeure Event; or
 - (ii) the Licensee could not have taken reasonable steps to avoid the impact of the Force Majeure Event.

Article 14 Payment of Licence Fees

- (1) The Licensee shall pay the Regulator the Licence Fees.
- (2) The annual Licence Fee shall be paid within 30 Calendar Days of the Start Date and every 12 Month anniversary from the Start Date.
- (3) When there is a late payment of Licensee Fees, the Licensee shall pay interest to the Regulator based on [prime lending rate] of the Central Bank of Samoa.
- (4) The Regulator shall forfeit the Licence Fees paid in a Calendar Year under this Article 14 of this rule, if:
 - (a) the Licensee withdraws the Licence after the Licence is awarded to the Licensee; or
 - (b) if the Licence is terminated or cancelled at any time during the term of the Licence.

Article 15 Maintenance of Telecommunications Networks

- (1) The Licensee shall maintain its Telecommunications Networks in proper working order, in accordance with such standards conforming to international practice and such standards as may be specified by the Regulator pursuant to Section 60 of the Telecommunications Act 2005.

- (2) The Licensee shall not keep any Telecommunications Equipment connected to any of the Licensee's Telecommunications Networks if that Telecommunications Equipment:
- (a) in the opinion of the Licensee, no longer conforms to the required technical standards and the Regulator has not expressed a contrary opinion; or
 - (b) in the opinion of the Licensee, is liable to:
 - (i) cause the death of or personal injury to any person engaged in the running of a Telecommunications Network;
 - (ii) materially impair the quality of any Telecommunications Service provided; or
 - (iii) cause damage to the property of the Licensee or any third party,and the Regulator has not expressed a contrary opinion.
- (3) The Licensee shall take all reasonable steps to ensure the integrity of Telecommunications Networks in Samoa and may refuse to provide a Telecommunications Service to a customer if providing those Telecommunications Services would or would be likely to cause damage or interference to any Telecommunications Network in Samoa.
- (4) Section 72 of the Telecommunications Act 2005 shall apply to any dispute arising as to the application of the condition set out in Article 15(3) of this Rule.
- (5) The Licensee shall provide the Regulator with a plan for the sharing of its Telecommunications Networks with other Licensees upon requested by the Regulator, after the Regulator has determined that such sharing is in the national and public interest.

Article 16 Use of radio frequencies

- (1) Where the Licensee intends to use radio frequencies in the provision of Telecommunications Services, the Licensee shall:
- (a) submit the appropriate application to the Regulator in accordance with the rule made pursuant to Section 23 of the Telecommunications Act 2005; and
 - (b) obtain all necessary spectrum licences issued pursuant to Section 22 of the Telecommunications Act 2005.

Article 17 Telephone directory services and integrated public number databases

- (1) If directed by the Regulator pursuant to Section 56 of the Telecommunications Act 2005, the Licensee shall provide telephone directories to customers of that Licensee and customers of all other Service Providers on such terms as directed by the Regulator.
- (2) The Licensee directed by the Regulator under Article 17(a) of this Rule shall maintain an integrated public number database for complying with its obligations in respect of telephone directories and for other purposes specified by the Regulator.
- (3) Each Licensee shall provide all relevant customer data in respect of its customers to the Licensee directed by the Regulator under Article 17(a) of this Rule, for the purpose of enabling that Licensee to maintain an integrated public number database and telephone directories. Unless otherwise directed by the Regulator, the data so provided will be free of charge.
- (4) The Licensee directed by the Regulator under Article 17(a) of this Rule must obtain the prior written approval of the Regulator before imposing any charges for the acquisition of telephone directory services by any customer.

Article 18 Operator assistance services

- (1) A Licensee who provides fixed telephony services, both wireline and wireless, and mobile telephony services, to customers, must make operator services available in respect of each such service.
- (2) A Licensee may comply with its obligation under Article 18(1) by:
 - (a) providing the operator service itself; or
 - (b) arranging with another Licensee for the provision of the operator services on such terms and conditions as are:
 - (i) agreed between the two Licensees; and
 - (ii) if the parties do not agree, as determined by the Regulator.